

REMARKS

The PCT application contains claims 11-30.

Claims 11-30 stand provisionally rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 11-30 of copending Application No. 10/549,517. The Applicant will herein provide a terminal disclaimer in compliance with 37 CFR 1.321 to overcome this provisional rejection.

The drawings stand rejected because Figure 4 is unclear as to what is being shown. Specifically, the Examiner is unclear as to correctly indicate that the line at issue refers to. This line is conducting device 42, which extends within the hollow space 37 of the intermediate layer 10 through the lower air distribution device 32, the connecting device 35, and the upper air distribution device 25 and is coupled to the planar heating element 74. For clarity, the Applicant herein has marked a portion of the line extending from the upper air distribution device 25 to the planar heating element 74 with dashes, as this portion would be not visible from the surface as depicted in Figure 4. In addition, the Applicant has amended Figure 3 to remove reference to reference numeral 5, as this reference number does not appear anywhere in the specification. Thus, a replacement sheet for Figures 3 and 4 indicating these changes is provided. Reconsideration of Figures 3 and 4 of the drawings is respectfully requested.

Claim 13 stand objected to for informalities listed in Paragraph 5 on the bottom of Page 4 of the Office Action. The Applicant herein has amended claim 13, as the Examiner has suggested, to read "arranged in a space". Reconsideration of claim 13 is thus respectfully requested.

Claims 11-30 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for reasons specified in Paragraphs 6-10 of the Office Action.

With regards to claim 11, the Applicant has amended the claim to remove reference to a front side and rear side, and replaced them with a first side and second side. Further, the Applicant has amended a portion of the claim to read "upper and lower air distribution devices" to correct an antecedent basis problem. Reconsideration of claim 11, and dependent claims 12-25, is thus respectfully requested.

With respect to claims 26-29, the Examiner has requested clarification of the relationship between the intermediate spaces, the heating conductor and the intermediate layer. The Applicant respectfully disagrees that the relationship is not clearly defined in claims 28 and 29, and directs the Examiner's attention to paragraph [0090] of the published portion of the present application (Publication No. 2007/0001506 A1). Paragraph [0090] describes that the intermediate spaces 88, 88' are formed by the support elements 14. Thus, with respect to claims 28 and 29, paragraph [0090] clearly discloses that the insulated heating conductor 42, 44 extends in the intermediate spaces 88, 88'. Moreover, with respect to claim 29, paragraph [0090] clearly discloses that the heating conductor 44 is fixed to the base layer 8. Thus, each of the requirements of claims 28 and 29 is satisfied and is therefore not vague.

With respect to claims 26 and 27, in order to remove this ground of indefiniteness, the Applicant has amended each of the claims to remove the phrase "or in an intermediate space formed by a support element in the intermediate layer." The remainder of the claim language is fully supported by paragraph [0090] and Figure 23.

Thus, the Applicant respectfully suggests that claims 26-30 are not indefinite. Reconsideration of claims 26-30 is respectfully requested.

Claims 11-12, 15-16, 18-19 and 22-24 stand rejected under 35 U.S.C. §102(b) as being anticipated by Fourrey (U.S. Patent No. 6,291,803). Claims 25-30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fourrey (U.S. Patent No. 6,291,803). The Applicant respectfully traverses each of the Examiner's rejections.

Fourrey discloses a method and system of regulating heat in a vehicle seat. According to the Examiner, Fourrey discloses "at least one supporting element (11) in the form of a spring." The Applicant respectfully disagrees. The reference numeral (11), as described in Column 5, lines 33-38, discloses two dividing walls (11) that provide a join between the films (6) and (9) that seal off the second permeable layer (8), subdividing it into a central part (8a) and two side parts (8b). Moreover, these dividing walls (11) consist of two weld seams between the films. These dividing walls therefore are not in the form of a spring, which is required by claim 11 of the present invention. Thus, Fourrey does not disclose each and every element of independent claim 11, nor each and every element of dependent claims 12-30 therefrom, which are required by anticipation rejections under 35 U.S.C. §102(b) and obviousness rejections under 35 U.S.C. §103(a) in accordance with MPEP 2143. As such, the Applicant respectfully requests reconsideration of claims 11-30.

Claim 14 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fourrey (U.S. Patent No. 6,291,803) in view of Diemer et al. (U.S. Patent Application No. 2004/0036325). In stating his rejection, the Examiner notes that Fourrey does not disclose the use of a sensor for detecting pressure, but Diemer discloses a surface heating system that includes a functioning unit which can contain a special seat occupancy sensor, a heat sensor or a temperature gauge. The Examiner then concludes that it would have been obvious to provide the heated pad of Fourrey with the heating sensor of Diemer to arrive at claim 14. The Applicant respectfully traverses the Examiner's rejection, noting that the combination of Fourrey and Diemer does not disclose at least one supporting element in the form of a spring. Thus, because the combination does not disclose each and every element of claim 14, the Examiner has not established the basic criteria necessary to establish a case of obviousness under MPEP 2143. Reconsideration of claim 14 is thus respectfully requested.

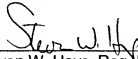
Claim 17 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fourrey (U.S. Patent No. 6,291,803) in view of Kochman (U.S. Patent No. 6,229,123). In stating his rejection, the Examiner notes that Fourrey does not disclose a heating component with a PTC Element, but Kochman discloses a textile heater that includes a PTC material for temperature self limiting control. The Examiner then concludes that it would have been obvious to provide a heating component with PTC characteristics as taught by Kochman in order to provide temperature self limiting control for the heated seat of Fourrey to arrive at claim 17. The Applicant respectfully traverses the Examiner's rejection, noting that the combination of Fourrey and Diemer does not disclose at least one supporting element in the form of a spring. Thus, because the combination does not disclose each and every element of claim 17, the Examiner has not established the basic criteria necessary to establish a case of obviousness under MPEP 2143. Reconsideration of claim 17 is thus respectfully requested.

Claims 20 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fourrey (U.S. Patent No. 6,291,803) in view of Faust et al. (U.S. Patent No. 5,934,748). In stating his rejection, the Examiner notes that Fourrey does not disclose a connecting device placed around a seat cushion, but Faust teaches a vehicle seat with temperature control that includes a lower air distribution area that is then routed around the flexible duct (31) in order to connect to the upper distribution device. The Examiner then concludes that it would have been obvious to provide an inner connecting device as taught in Faust to heated seat of Fourrey to arrive at claims 20 and 21. The Applicant respectfully traverses the Examiner's rejection, noting that the combination of Fourrey and Diemer does not disclose at least one supporting element in the form of a spring (a flexible duct is in no way the equivalent of a spring). Thus, because the combination does not disclose each and every element of claims 20 and 21, the Examiner has not established the basic criteria necessary to establish a case of obviousness under MPEP 2143. Reconsideration of claims 20 and 21 is thus respectfully requested.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 433-7245 if any unresolved matters remain. The Commissioner is also authorized to charge any additional fees or credit any overpayment to Deposit Account No. 04-1061, in the name of Dickinson Wright PLLC.

Respectfully submitted,

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